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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/477,422	01/04/2000	JON C. SCHAEFFER	13DV-13434	9215

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EXAMINER

MEEKS, TIMOTHY HOWARD

ART UNIT

PAPER NUMBER

1762

17

DATE MAILED: 11/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/477,422

Applicant(s)

SCHAEFFER, JON C.

Examiner

Timothy H. Meeks

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 15 November 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 8-13, 16-18, 47, 73, 89-94 and 112.

Claim(s) withdrawn from consideration: 1-7, 14, 15, 19, 20 and 26.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

Timothy H. Meeks  
Primary Examiner  
Art Unit: 1762

Continuation of 2. NOTE: The proposed added limitations requiring a certain sequence of the claimed steps and requirement of a single phase aluminide in the proposed claims were not earlier considered and would therefore require further search and consideration .

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejection of claims 8-10, 12, and 13 under 35 USC 112, first paragraph is withdrawn in view of the arguments presented at pages 6-8 of Paper 15.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant requests confirmation of the status of claim 112. Claim 112 was rejected under 35 USC 103 on page 6 of the final rejection. The examiner apologizes for the inadvertent omission of claim 112 on the office action summary. Applicants argue with respect to claim 47 that the disclosure of a region with a varying component concentration with depth supports the limitations of an outer aluminide coating having a solid solution intermediate phase and an inner diffusion zone. These arguments have been considered but are not convincing because there is no description of a solid solution phase. Furthermore, the disclosure of a coating having a concentration of components that vary with depth does not support the claimed "outer aluminide having a solid solution intermediate phase and separate inner diffusion zone". This is exemplified by applicants figures 2A and 2B where the diffusion coatings (34 or 36) are shown as well as the surface of the substrate 31. There is no outer aluminide coating having a solid solution intermediate phase and an inner diffusion zone disclosed. The rejection with respect to the amounts of aluminum in the range of 24-28% and platinum at 8-18% in claim 47 is withdrawn in view of applicants' arguments. The arguments with respect to the nickel concentration ranges have been considered but are not convincing. Even supposing that the speculative amounts of nickel applicants set forth based on certain Ni-based substrates were what would necessarily be obtained, which the examiner disagrees with as this would clearly depend upon the processing conditions used to make the coatings which applicants' claims have broad variations, the amounts calculated by applicants do not support the 50 to 60% range now being claimed. The examiner further maintains the position set forth at page 8 of the final rejection with respect to the arguments regarding the "nonstoichiometric" and "oxidizing step" limitations in claim 47. Applicants further argue that oxygen would be present in sufficient amount to form an oxide during typical annealing as is exemplified in Duderstadt and Strangman. The claim limitation is "oxidizing the diffusion aluminide layer under temperature and oxygen partial pressure conditions effective to form an alpha alumina layer". Applicants specification describes no formation of an alpha alumina layer by oxidizing the diffusion aluminide layer under temperature and oxygen partial pressure conditions effective to form an alpha alumina layer. No oxygen partial pressures are described for applicants annealing step, nor is formation of an alpha alumina layer therefrom. The rejection with respect to the aluminum and platinum ranges in claim 89 is withdrawn for the reasons set forth above for the other claims. The examiner maintains the position with respect to the nickel concentration in claim 89 as set forth above. The examiner maintains the positions set forth a pages 9-10 of the final office action with respect to the art rejections .